

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTOLIN MARKS,
Plaintiff,

v.

JACK BENNETT,
Defendant.

Case No. C07-5674RBL/JKA

ORDER UNSEALING AND
DENYING PLAINTIFF'S MOTION
FOR THE COURT TO TAKE
JUDICIAL NOTICE

This 42 U.S.C. § 1983 Bivens action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Mr. Marks now litigates under sanctions as a result of improper filings. As part of those sanctions, documents filed by Mr. Marks are submitted under seal for court review. Mr. Marks has filed one document since entry of the last order (Dkt. # 21). Mr. Marks filed a response to a motion to dismiss and then filed another document asking the court to take "judicial notice of certain facts". Mr. Marks last filing was made after defendant had filed a reply. Dkt. # 21 is now **UNSEALED**.

The court summarily **DENIES** the plaintiff's motion. The local rules of this court allow for a motion, a response, and a reply. See, Local Rule 7. As the non moving party, plaintiff does not

1 have an opportunity to present additional argument and evidence after a reply has been filed.
2 Further, the court has converted defendant's motion to dismiss, (Dkt. # 19), to a motion for
3 summary judgment. Both parties will now have an opportunity to file additional briefing. Plaintiff
4 may file additional argument under that order. This gives defendant Bennett the opportunity to file a
5 reply to plaintiff's arguments.

6 Document 21 will remain in the file but may not be cited to by either party and will not be
7 considered by the court. The Clerk of Court is directed to send a copy of this Order to plaintiff and
8 to counsel for defendant(s).

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10 DATED this 23 day of June, 2008.

11 /S/ J. Kelley Arnold
12 J. Kelley Arnold
13 United States Magistrate Judge
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